

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBERT BINION and THE COWTOWN)	
FOUNDATION, INC.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:18-cv-544-MHT-WC
)	
THE UNITED STATES DEPARTMENT)	
OF AGRICULTURE and)	
THE SECRETARY OF AGRICULTURE,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This action was commenced, pro se, on June 1, 2018 (Doc. 1) and was referred to the undersigned for consideration and disposition or recommendation on all pretrial matters as may be appropriate, pursuant to 28 U.S.C. § 636 (Doc. 4).

A motion for preliminary injunction has been docketed based on the following portion of the Complaint:

Secretary to suspend the requirement of irrigation to all Black Farmers that have pending discrimination complaint at the USDA. The Secretary has refused to provide hearing for Black Farmers and in some cases the agency owes millions of dollars, but continue to promulgate rules and regulations to place an unfair added expenses on Black Farmers without paying the same in which it owes. An effort to drive the Black Farmers into extinction.

Id. at 12.

As of this date, no Defendant has been properly served or had a meaningful opportunity to respond to plaintiffs' allegations. "The court may issue a preliminary injunction only on notice to the adverse party." Fed. R. Civ. P. 65(a)(1); *see, e.g., Smith v.*

Fye, No. 5:17-cv-406-CAR-MSH, 2018 WL 1416025, at *6 (M.D. Ga. Jan. 31, 2018), *report and recommendation adopted*, No. 5:17-cv-406-CAR-MSH, 2018 WL 1414846 (M.D. Ga. Mar. 21, 2018). Thus, it would be premature to grant Plaintiffs' motion for preliminary injunction. Accordingly, the court **RECOMMENDS** that the motion for preliminary injunction be denied without prejudice.

On or before **November 26, 2018**, the parties may file objections to the Recommendation. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which the objection is made. Frivolous, conclusive, or general objections to the Recommendation will not be considered.

Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with the provisions of 28 U.S.C. § 636(b)(1) shall bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waives the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court, except upon grounds of plain error or manifest injustice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

Done this 8th day of November, 2018.

/s/ Wallace Capel, Jr.
CHIEF UNITED STATES MAGISTRATE JUDGE